

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Rasenberger	Team: Squad #7	CCRB Case #: 202004427	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 5:00 PM	Location of Incident: Near Grand Army Plaza and the Brooklyn Public Library and down Flatbush Avenue	Precinct: 77	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/16/2020 1:06 PM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Tue, 06/16/2020 1:06 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Dicamillo	15487	948887	078 PCT
2. POM Alen Hodzic	13886	960672	078 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Inna Miroshnyk	04042	963654	078 PCT
2. POM Aron Baksh	07424	948639	078 PCT
3. POF Monet Allen	25198	966933	078 PCT
4. POM Daniel Alvarez	03017	964372	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Alen Hodzic	Abuse: Police Officer Alen Hodzic threatened individuals with the use of force.	
B.POM Thomas Dicamillo	Abuse: Police Officer Thomas Dicamillo threatened individuals with the use of force.	

Case Summary

On June 16th, 2020, § 87(2)(b) reported the following complaint to the CCRB via e-mail [BR 1].

On May 30th, 2020, § 87(2)(b) and about 75 other participants in the George Floyd/Black Lives Matter Protests were walking north along Flatbush Avenue, near the intersection of Prospect Place. At around 7:56 p.m., three RMPs, travelling in single file, approached the intersection of Prospect Place and Flatbush Avenue. The first RMP drove through the intersection without incident. The second RMP, driven by Police Officer Allen Hodzic of the 78th Precinct, allegedly accelerated toward a group of civilians on the roadway (**Allegation A: Abuse of Authority - Threat of Force**, § 87(2)(g)). The third RMP, driven by Officer Thomas DiCamillo of the 78th Precinct, also allegedly accelerated toward protesters (**Allegation B: Abuse of Authority - Threat of Force**, § 87(2)(g)).

The CCRB has received three cell phone videos that capture the incident [BR 2, 3, and 4]. The CCRB has not received body-worn camera footage, because the officers did not activate their cameras during this incident.

Findings and Recommendations

Allegation A: Police Officer Alen Hodzic threatened individuals with the use of force

Allegation B: Police Officer Thomas DiCamillo threatened individuals with the use of force

It is undisputed that at around 7:56 p.m. on May 30th, 2020, RMP 5545, wherein PO Hodzic and PO Allen were occupants, and RMP 3540, wherein PO DiCamillo and PO Miroshnyk were occupants, drove through the intersection of Prospect Place and Flatbush Avenue in Brooklyn, while civilians were gathered on the roadway. § 87(2)(b) provided a link to a cellphone video that captures the incident [BR 2]. § 87(2)(b) explained that he and a few hundred other protesters marched from Grand Army Plaza, north along Flatbush Avenue. They were marching through the intersection of Prospect Place and Flatbush Avenue, when multiple NYPD vehicles accelerated through the intersection, apparently in an attempt to threaten or frighten the protesters. (Minutes later, according to § 87(2)(b) two other RMPs collided with a group of civilians at the intersection of Flatbush and St. Marks avenues; this incident is being investigated under case 202003710.) The CCRB attempted to contact other possible witnesses, but was unable to obtain any additional statements [BR 17].

PO DiCamillo, the operator of RMP 3540, stated that a few minutes prior to the incident described by § 87(2)(b) protesters had ambushed RMP 3540 as it was waiting for the light to change at the west side of the intersection of Prospect and Flatbush [BR 8]. The AVL history for RMP 3540 [BR 9] shows that the vehicle arrived at the west side of the intersection at about 7:52 p.m. At this time, according to PO DiCamillo, protesters emerged suddenly and placed metal police barriers in front of the RMP. Many protesters then surrounded the vehicle and smashed the vehicle's windows. A cellphone video of this incident corroborates PO DiCamillo's testimony [BR 10]. A UF-61 prepared in regards to the incident notes that "both rear view windows" of the vehicle were damaged [BR 11]. Officer Miroshnyk, PO DiCamillo's partner, provided a statement [BR 12] that is consistent with that of PO DiCamillo. She stated that during the ambush she was afraid for her life. She transmitted a 10-85 (call for officers's assistance) over the radio, advising that her vehicle was taking airmail, and calling for backup. This 10-85 prompted many units to respond to Prospect and Flatbush, including RMP 5545 (driven by PO Hodzic and PO Allen). PO DiCamillo and PO Miroshnyk were able to make a U-Turn and escape the attack. The AVL history for RMP 3540 shows that three minutes after the ambush the vehicle turned onto Flatbush Avenue,

and drove north one block toward Prospect Place. At this time, RMP 5455 was also on Flatbush Avenue, just ahead of RMP 3540.

However, there was no coordination or communication between RMP 3540 and RMP 5545. PO Miroshnyk and PO DiCamillo did not communicate over the radio that they had escaped the ambush. For this reason, PO Hodzic and PO Allen were still responding to PO Miroshnyk and PO DiCamillo's 10-85, minutes after PO DiCamillo and PO Miroshnyk had escaped. PO Hodzic, the operator of RMP 5455, stated that he was driving down Flatbush Avenue, responding urgently to the 10-85 [BR 5]. As his RMP approached Prospect Place, three protesters came within feet of the RMP, and smashed at least one of the side windows with unknown objects. One protester threw a garbage can into the front windshield of the vehicle. § 87(2)(b), prepared in regards to the incident, notes damage to the left rear window of RMP 5545 [BR 6]. PO Hodzic further stated that he was afraid for his life throughout the ambush, but was careful to operate his vehicle safely, driving slowly and keeping as much distance as possible between the vehicle and civilians on the roadway. He found a large opening in the crowd of civilians, and was able to drive through this opening, and then turn off Flatbush Avenue, in order to escape the ambush. The video noted above [BR 2] shows, at 00:05, multiple protesters intentionally positioning themselves in the path of RMP 5455. Some protesters are seen placing metal barriers in the vehicle's path as it approaches the intersection with lights and sirens activated. Another video of the incident [BR 3], recorded from a different angle, also captures civilians positioning themselves in front of RMP 5545, beginning at around 00:10. RMP 5545 is seen slowing down significantly, to avoid a metal barrier protesters have placed in its path. The vehicle then turns to the left, away from civilians attempting to blockade the vehicle. Civilians continue to encroach upon the vehicle, and the vehicle comes to a near stop. At 00:12 in the first video [BR 2], RMP 5545 comes to a full stop for a second time, at which point two civilians throw garbage cans at the RMP. PO Hodzic's partner, PO Allen, provided a statement [BR 7] that is consistent with PO Hodzic's. PO Allen added that, as PO Hodzic maneuvered through the intersection, she was paying careful attention to where civilians were positioned, and alerted PO Hodzic whenever a civilian was close to the vehicle. Both PO Hodzic and PO Allen denied attempting to threaten or collide with any civilians on the roadway, and stated that they took caution to avoid hitting anyone.

RMP 3540 approached the intersection of Prospect Place and Flatbush Avenue roughly a second after RMP 5455. RMP 3540 was travelling at 28.38 miles per hour as it approached the intersection, according to the AVL history. PO DiCamillo stated that at this time he believed his RMP was badly damaged, and considered his and PO Miroshnyk's life to still be at risk. His sole intention was to get back to the protection of the stationhouse as quickly as possible. There was debris scattered along Flatbush Avenue, as well as at least one metal barrier in the middle of the road. PO DiCamillo believed that a civilian threw the barrier in front of RMP 3540 as it approached Prospect Place. PO DiCamillo drove slowly so that he could maneuver around the debris and the barrier. He paid close attention to the roadway, and was careful to avoid civilians near the vehicle. PO DiCamillo did not believe that he ever came close to colliding with a civilian. PO Miroshnyk's testimony is largely consistent with that of PO DiCamillo. However, PO Miroshnyk did not clearly recall the aftermath of the initial ambush at Prospect and Flatbush Avenue. PO Miroshnyk explained that she was disoriented because of fear and shock.

The AVL history for RMP 3540 does not show how quickly the vehicle was moving as it drove through the intersection of Prospect Place and Flatbush Avenue. However, cellphone footage [BR 3] shows that the vehicle was travelling slower than 28.38 miles per hour, suggesting that it slowed down considerably before entering the intersection. In this footage, at about 00:20, civilians are seen positioning themselves in the path of the RMP, which is activating its siren. One civilian approaches the right side of the RMP and throws a garbage can at the vehicle. Another civilian throws a metal barrier in front of the RMP. The RMP then turns to avoid the barrier -- causing a civilian to back away from the RMP -- before turning onto Prospect Place. The RMP does not appear to come close to colliding with any civilians.

NYS VTL § 1104 provides that the driver of an authorized emergency vehicle, when involved in an emergency operation, may exceed the maximum speed limit and disregard regulations concerning direction of movement, so long as he does not endanger life or property. The driver of an authorized emergency vehicle has the duty to drive with due regard for the safety of all persons. New York State Vehicle and Traffic Law, Section 1104 [BR 13].

NYPD PG 202-22 requires that RMP operators drive in a manner to avoid injury to persons or damage to property, and maintain a slow speed except under exceptional circumstances or extreme emergency. NYPD Patrol Guide 202-22 [BR 14].

§ 87(2)(b)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- [REDACTED] [BR 15].
 - § 87(2)(b) [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- PO Dicamillo has been a member of service for ten years, over which time he has been the subject of three other complaints and seven allegations, three of which were substantiated.
 - Case 201903880 involved allegations of refusal to provide name, refusal to provide shield, and a retaliatory summons, all of which were substantiated and resulted in Command Discipline A.

PO Hodzic has been a member of service for four years. This is his first CCRB complaint

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED]'s complaint was not eligible for mediation, because it was related to the George Floyd/Black Lives Matter protests
- § 87(2)(b) [REDACTED]

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| Squad No.: | <u>7</u> | | |
| Investigator: | <u>Will Rasenberger</u>
Signature | <u>Inv. Will Rasenberger</u>
Print Title & Name | <u>10/21/2020</u>
Date |
| Squad Leader: | <u> </u>
Signature | <u>Manager Vanessa Rosen</u>
Print Title & Name | <u>November 9, 2020</u>
Date |
| Reviewer: | <u> </u>
Signature | <u> </u>
Print Title & Name | <u> </u>
Date |